

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 836

Introduced by Lautenbaugh, 18.

Read first time January 08, 2010

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to deer; to amend sections 37-403, 37-448,
2 and 77-2715.07, Reissue Revised Statutes of Nebraska,
3 and section 37-514, Revised Statutes Supplement, 2009;
4 to permit certain persons to hunt and possess deer as
5 prescribed; to provide for a mandatory deer depredation
6 season and change provisions relating to special
7 deer depredation seasons; to provide an exception to
8 prohibited hunting with artificial light; to provide a
9 tax credit; to harmonize provisions; to provide operative
10 dates; to repeal the original sections; and to declare
11 an emergency.

12 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 37-403, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 37-403 (1) Any person who owns or operates farm or
4 ranch land and who actually resides on a portion of such farm or
5 ranch land, together with members of his or her immediate family
6 also residing on such land, may hunt and possess, ~~within duly~~
7 ~~established season bag and possession limits,~~ upland game birds
8 and all game ~~except migratory waterfowl, shore birds, elk, deer,~~
9 ~~antelope, wild turkey, and mountain sheep~~ without paying a fee and
10 without obtaining a hunting permit as required in sections 37-401
11 and 37-411 or a habitat stamp as required in sections 37-426 to
12 37-433; ~~;~~

13 (a) Within duly established season bag and possession
14 limits, upland game, upland game birds, and all game except
15 migratory waterfowl, shore birds, elk, deer, antelope, wild turkey,
16 and mountain sheep; and

17 (b) Deer, without regard to season bag and possession
18 limits.

19 (2) For purposes of this exemption, immediate section:

20 (a) Immediate family means and is limited to husband and
21 wife and their children; and upland

22 (b) Upland game means and is limited to cottontail
23 rabbits, and squirrels; and

24 (c) Upland game birds means and is limited to grouse,
25 partridges, pheasants, prairie chickens, and quail.

1 (3) Such exemption shall only apply to hunting done on
2 land owned or operated by such person and shall not apply when
3 hunting on the land of other persons. The commission may by rule
4 and regulation require a person hunting without a permit claiming
5 to come under this exemption to sign a statement presented by
6 a conservation officer which states facts which verify that the
7 person comes within this exemption.

8 (4) A violation of this section shall be a Class IV
9 misdemeanor.

10 Sec. 2. Section 37-448, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 37-448 (1) A mandatory deer depredation season shall be
13 held biennially beginning in 2010 to control the deer population.
14 The secretary of the commission shall specify the number of
15 permits to be issued, shooting hours, the length of the depredation
16 season, and the geographic area in which hunting will be permitted.
17 Each such permit shall give the holder the right to take two
18 deer. Hunting during a mandatory deer depredation season shall be
19 limited to residents and shall be restricted to firearms which are
20 permissible for use during the regular deer season. The secretary
21 may, by executive order, rescind a mandatory deer depredation
22 season for one year, and the mandatory deer depredation season
23 shall be held the following year unless again rescinded by the
24 secretary.

25 ~~(1)~~ (2)(a) Subject to rules and regulations adopted and

1 promulgated by the commission, the secretary of the commission may
2 designate special deer depredation seasons by executive order. The
3 secretary may designate a special deer depredation season whenever
4 he or she determines that deer are causing excessive property
5 damage. The secretary shall specify the number of permits to be
6 issued, shooting hours, the length of the special deer depredation
7 season, and the geographic area in which hunting will be permitted.
8 Each such permit shall give the holder the right to take ~~one~~ two
9 deer. Hunting during a special deer depredation season shall be
10 limited to residents and shall be restricted to firearms which are
11 permissible for use during the regular deer season.

12 ~~(2)~~ The (b) A special deer depredation season may
13 commence not less than five days after the first public
14 announcement that the special deer depredation season has been
15 established. Permits shall be issued beginning not less than three
16 days after the first public announcement of the special deer
17 depredation season and shall be issued in an impartial manner
18 at a location determined by the secretary. The commission shall,
19 pursuant to section 37-327, establish and charge a fee of not
20 more than twenty-five dollars for a special deer depredation
21 season permit. Fifty percent of the fee shall be paid by the
22 commission to a landowner or operator within the designated area
23 upon satisfactory proof a deer was killed upon his or her farm
24 or ranch during the special deer depredation season. Receipt of a
25 special deer depredation season permit shall not in any way affect

1 a person's eligibility for a regular season permit.

2 Sec. 3. Section 37-514, Revised Statutes Supplement,
3 2009, is amended to read:

4 37-514 (1) Except as provided in section 37-4,107, it
5 shall be unlawful to hunt any wildlife by projecting or casting the
6 rays of a spotlight, headlight, or other artificial light attached
7 to or used from a vehicle or boat in any field, pasture, woodland,
8 forest, prairie, water area, or other area which may be inhabited
9 by wildlife while having in possession or control, either singly or
10 as one of a group of persons, any firearm or bow and arrow.

11 (2) Nothing in this section shall prohibit (a) the
12 hunting on foot of raccoon with the aid of a handlight, (b) the
13 hunting on foot of deer with the aid of a handlight, (c) the
14 hunting of species of wildlife not protected by the Game Law in the
15 protection of property by landowners or operators or their regular
16 employees on land under their control on foot or from a motor
17 vehicle with the aid of artificial light, or ~~(e)~~ (d) the taking of
18 nongame fish by means of bow and arrow from a vessel with the aid
19 of artificial light.

20 (3) Any person violating this section shall be guilty of
21 a Class III misdemeanor and shall be fined at least two hundred
22 fifty dollars upon conviction.

23 Sec. 4. Section 77-2715.07, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 77-2715.07 (1) There shall be allowed to qualified

1 resident individuals as a nonrefundable credit against the income
2 tax imposed by the Nebraska Revenue Act of 1967:

3 (a) A credit equal to the federal credit allowed under
4 section 22 of the Internal Revenue Code; and

5 (b) A credit for taxes paid to another state as provided
6 in section 77-2730.

7 (2) There shall be allowed to qualified resident
8 individuals against the income tax imposed by the Nebraska Revenue
9 Act of 1967:

10 (a) For returns filed reporting federal adjusted
11 gross incomes of greater than twenty-nine thousand dollars, a
12 nonrefundable credit equal to twenty-five percent of the federal
13 credit allowed under section 21 of the Internal Revenue Code of
14 1986, as amended;

15 (b) For returns filed reporting federal adjusted gross
16 income of twenty-nine thousand dollars or less, a refundable credit
17 equal to a percentage of the federal credit allowable under section
18 21 of the Internal Revenue Code of 1986, as amended, whether or
19 not the federal credit was limited by the federal tax liability.
20 The percentage of the federal credit shall be one hundred percent
21 for incomes not greater than twenty-two thousand dollars, and
22 the percentage shall be reduced by ten percent for each one
23 thousand dollars, or fraction thereof, by which the reported
24 federal adjusted gross income exceeds twenty-two thousand dollars;

25 (c) A refundable credit as provided in section 77-5209.01

1 for individuals who qualify for an income tax credit as a qualified
2 beginning farmer or livestock producer under the Beginning Farmer
3 Tax Credit Act for all taxable years beginning or deemed to begin
4 on or after January 1, 2006, under the Internal Revenue Code of
5 1986, as amended;

6 (d) A refundable credit for individuals who qualify for
7 an income tax credit under the Nebraska Advantage Microenterprise
8 Tax Credit Act or the Nebraska Advantage Research and Development
9 Act; and

10 (e) A refundable credit equal to ten percent of the
11 federal credit allowed under section 32 of the Internal Revenue
12 Code of 1986, as amended.

13 (3) There shall be allowed to all individuals as a
14 nonrefundable credit against the income tax imposed by the Nebraska
15 Revenue Act of 1967:

16 (a) A credit for personal exemptions allowed under
17 section 77-2716.01;

18 (b) A credit for contributions to certified community
19 betterment programs as provided in the Community Development
20 Assistance Act. Each partner, each shareholder of an electing
21 subchapter S corporation, each beneficiary of an estate or trust,
22 or each member of a limited liability company shall report his or
23 her share of the credit in the same manner and proportion as he
24 or she reports the partnership, subchapter S corporation, estate,
25 trust, or limited liability company income; and

1 (c) A credit for investment in a biodiesel facility as
2 provided in section 77-27,236.

3 (4) There shall be allowed as a credit against the income
4 tax imposed by the Nebraska Revenue Act of 1967:

5 (a) A credit to all resident estates and trusts for taxes
6 paid to another state as provided in section 77-2730;

7 (b) A credit to all estates and trusts for contributions
8 to certified community betterment programs as provided in the
9 Community Development Assistance Act; ~~and~~

10 (c) A refundable credit for individuals who qualify for
11 an income tax credit as an owner of agricultural assets under the
12 Beginning Farmer Tax Credit Act for all taxable years beginning
13 or deemed to begin on or after January 1, 2009, under the
14 Internal Revenue Code of 1986, as amended. The credit allowed
15 for each partner, shareholder, member, or beneficiary of a
16 partnership, corporation, limited liability company, or estate
17 or trust qualifying for an income tax credit as an owner of
18 agricultural assets under the Beginning Farmer Tax Credit Act
19 shall be equal to the partner's, shareholder's, member's, or
20 beneficiary's portion of the amount of tax credit distributed
21 pursuant to subsection (4) of section 77-5211; ~~and-~~

22 (d) A refundable credit for a person who owns forty acres
23 or less in an area where deer may be legally killed under the Game
24 Law of twenty-five dollars for each deer killed on such property by
25 a person who is not authorized to take deer on such property under

1 section 37-403.

2 (5) (a) For all taxable years beginning on or after
3 January 1, 2007, and before January 1, 2009, under the Internal
4 Revenue Code of 1986, as amended, there shall be allowed to each
5 partner, shareholder, member, or beneficiary of a partnership,
6 subchapter S corporation, limited liability company, or estate or
7 trust a nonrefundable credit against the income tax imposed by
8 the Nebraska Revenue Act of 1967 equal to fifty percent of the
9 partner's, shareholder's, member's, or beneficiary's portion of the
10 amount of franchise tax paid to the state under sections 77-3801 to
11 77-3807 by a financial institution.

12 (b) For all taxable years beginning on or after January
13 1, 2009, under the Internal Revenue Code of 1986, as amended,
14 there shall be allowed to each partner, shareholder, member, or
15 beneficiary of a partnership, subchapter S corporation, limited
16 liability company, or estate or trust a nonrefundable credit
17 against the income tax imposed by the Nebraska Revenue Act of 1967
18 equal to the partner's, shareholder's, member's, or beneficiary's
19 portion of the amount of franchise tax paid to the state under
20 sections 77-3801 to 77-3807 by a financial institution.

21 (c) Each partner, shareholder, member, or beneficiary
22 shall report his or her share of the credit in the same manner
23 and proportion as he or she reports the partnership, subchapter S
24 corporation, limited liability company, or estate or trust income.
25 If any partner, shareholder, member, or beneficiary cannot fully

1 utilize the credit for that year, the credit may not be carried
2 forward or back.

3 Sec. 5. Sections 4 and 6 of this act become operative
4 for taxable years beginning or deemed to begin on or after January
5 1, 2010, under the Internal Revenue Code of 1986, as amended.
6 Sections 1, 2, 3, 5, 7, and 8 of this act become operative on their
7 effective date.

8 Sec. 6. Original section 77-2715.07, Reissue Revised
9 Statutes of Nebraska, is repealed.

10 Sec. 7. Original sections 37-403 and 37-448, Reissue
11 Revised Statutes of Nebraska, and section 37-514, Revised Statutes
12 Supplement, 2009, are repealed.

13 Sec. 8. Since an emergency exists, this act takes effect
14 when passed and approved according to law.